



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Kurt Tidd PE., Bureau of Air Quality
SUBJECT: U.S Department of Veterans Affairs, Regional Medical and Office Center,
Togus
DATE: October 7, 2010

*** **

Statutory and Regulatory References:

Maine's air quality rules for *Major and Minor Source Air Emissions License Regulations* 06-096 CMR 115 and Maine's air quality rules for *Source Surveillance* 06-096 CMR 117 authorize the Department to impose reasonable and appropriate license conditions to ensure compliance with emission standards, regulations or orders. U.S Department of Veterans Affairs, Regional Medical and Office Center, Togus ("Togus") operates its facility under the terms and conditions of Air Emission License A-372-71-G-M/R.

Location:

Togus, Maine

Description:

Togus violated requirements of Air Emissions License A -372-71-G-M/R and amendments by failing to keep opacity data as required by their Air Emissions License and Maine's air quality rules for *Source Surveillance* 06-096 CMR 117.

Environmental Issues:

The Department relies on the licensing of facilities to ensure compliance with State and Federal Laws and Regulations. Through the licensing process, the Department is able to control the amount and types of pollutants that are emitted to the atmosphere within the State.

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Togus to comply with the requirements of Air Emissions License A-372-71-G-M/R and Maine's air quality rules for *Source Surveillance* 06-096 CMR 117 provides for Civil Penalties in the amount of fifty six thousand, and seven hundred dollars (\$56,700.00). The penalty was a negotiated settlement based on the Bureau of Air Quality's penalty assessment guideline and includes a Supplemental Environmental Project.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

U.S. DEPARTMENT OF VETERANS AFFAIRS) ADMINISTRATIVE CONSENT
MEDICAL AND REGIONAL OFFICE CENTER) AGREEMENT
KENNEBEC COUNTY)
AUGUSTA, MAINE)
AIR EMISSIONS LICENSE A-372-71-G-M/R)
AIR QUALITY VIOLATIONS)

This Agreement by and among U.S Department of Veterans Affairs, Regional Medical and Office Center, Togus ("Togus") the Maine Department of Environmental Protection ("Department") and the Maine Office of the Attorney General is entered into pursuant to 38 M.R.S.A. § 347-A, and in accordance with the Department's Consent Agreement Policy (amended 1/10/90).

The parties agree as follows:

1. The Department of Veterans Affairs, Medical and Regional Office Center operates the Togus facility under the terms and conditions of Air Emission License A-372-71-G-M/R issued on August 19, 2003. Togus' Air Emission License provides for the operation of fuel burning equipment associated with the Medical and Regional Office Center.
2. The violations described herein took place at the Togus Hospital facility located in Augusta, Maine identified in paragraph one (1).
3. During times relevant to this Agreement, Togus was subject to Maine's Protection and Improvement of Air laws (Air Act), 38 M.R.S.A. § 581 -610-8, Maine's air quality rules for *Source Surveillance* 06-096 CMR 117 and Air Emission License A-372-71-G-M/R.
4. Throughout the period of time addressed in this Agreement, Togus was subject to Air Emissions License A-372-71-G-M/R condition (19)(B)(2) which states in relevant part;

(19) For Compliance Assurance, the Department of Veterans Affairs shall comply with the following:

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143

U.S. DEPARTMENT OF VETERANS AFFAIRS) ADMINISTRATIVE CONSENT
MEDICAL AND REGIONAL OFFICE CENTER) AGREEMENT
KENNEBEC COUNTY)
AUGUSTA, MAINE)
AIR EMISSIONS LICENSE A-372-71-G-M/R)
AIR QUALITY VIOLATIONS 2

B. Record-Keeping

2. The COMS required by this license shall be the primary means of demonstrating compliance with emission standards set by this Order, statute, state or federal regulation, as applicable. For the COMS, the licensee shall maintain records of the most current six year period and the records shall include:
 - a. Documentation that the COMS is continuously accurate, reliable and operated in accordance with Chapter 117; and
 - b. Documentation of performance evaluations, calibration checks, and adjustments and maintenance performance on the monitoring system; and
 - c. Upon the written request by the Department, a report or other data indicative of compliance with the applicable emission standard for those periods when the COMS was not in operation or produced invalid data. In the event the Bureau of Air Quality does not concur with the licensee's compliance determination, the licensee shall, upon the Bureau of Air Quality's request, provide additional data, and shall have the burden of demonstrating that the data is indicative of compliance with the applicable standard.
5. During the investigation by the Department for the COM downtime, it was discovered that Veterans Affairs, Medical and Regional Office Center, Togus, had not been keeping the required opacity data for the past six years as required by the requirements stated in paragraph four (4) above. A Letter of warning was issued to Togus on May 21, 2008 documenting this violation.
6. By the conduct described in paragraph five (5), Togus violated Air Emissions License A-372-71-G-M/R and Maine's Rule for *Source Surveillance*, 06-096 CMR 117.
7. Department Staff notified Togus by a Notice of Violation (NOV) sent on June 2, 2008, of the Air Emissions violations described in paragraph five (5).
8. For the purposes of this Agreement, Togus agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).

U.S. DEPARTMENT OF VETERANS AFFAIRS) ADMINISTRATIVE CONSENT
MEDICAL AND REGIONAL OFFICE CENTER) AGREEMENT
KENNEBEC COUNTY)
AUGUSTA, MAINE)
AIR EMISSIONS LICENSE A-372-71-G-M/R)
AIR QUALITY VIOLATIONS 3

9. Pursuant to 38 M.R.S.A § 341-D(6)(C) and § 347-A(1)(A)(1), Administrative Consent Agreements must be approved by the Board of Environmental Protection (BEP), which is part of the Department.
10. This Agreement shall become effective only if it is approved by the Board of Environmental Protection and the Office of the Attorney General.
11. To resolve the violations identified in this Agreement, Togus agrees to pay a civil monetary penalty in the sum of fifty six thousand and seven hundred dollars (\$56,700.00) as follows:
- i. Within Ninety (90) days of signature of this Agreement pay to the *Treasurer, State of Maine*, the sum of fifty two thousand and three hundred dollars (\$52,300.00);
 - ii Perform the attached Supplemental Environmental Project (SEP) described in Appendix A to mitigate the remaining balance of the penalty in the amount of four thousand four hundred dollars (\$4,400). If the actual cost of completing the SEP project is less than the minimum estimated cost set forth in the SEP, Togus shall pay the difference to the *Treasurer, State of Maine*.
 - iii. Any public statement, oral or written, in print, film, or other media, made by Togus making reference to the SEP described above shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Maine Department of Environmental Protection for air emissions violations."
 - iv. Any payments made by Togus pursuant to the SEP described above are not tax deductible and are ineligible for certification as tax exempt pollution control facilities pursuant to 36 M.R.S.A. §§ 105, 211.
12. The Department and the Office of the Attorney General grant a release of their causes of action against Togus for the specific violation listed in paragraph five (5) of this Agreement on the express condition that the civil monetary penalty listed in paragraph eleven (11) of this Agreement is paid.
13. This release shall not become effective until all requirements of this Agreement are satisfied.

U.S. DEPARTMENT OF VETERANS AFFAIRS) ADMINISTRATIVE CONSENT
MEDICAL AND REGIONAL OFFICE CENTER) AGREEMENT
KENNEBEC COUNTY)
AUGUSTA, MAINE)
AIR EMISSIONS LICENSE A-372-71-G-M/R)
AIR QUALITY VIOLATIONS 4

14. Non-compliance with this Agreement voids the release set forth in paragraph twelve (12) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
15. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
16. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS HEREOF the parties hereto have executed this Agreement of four (4) pages.

U.S DEPARTMENT OF VETERANS AFFAIRS, MEDICAL and REGIONAL OFFICE
CENTER, TOGUS

BY: _____

Title

MEDICAL CENTER DIRECTOR

SEP 08 2010

DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____

Susan M. Lessard, Chair

DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____

Gerald D. Reid, Assistant Attorney General

DATE

Appendix A: Supplemental Environmental Project

U.S. Department of Veterans Affairs Medical and Regional Office Center, Togus

Name of Project: Diesel Oxidation Catalyst Retrofit to Two (2) Existing Heavy Duty Diesel Vehicles.

Project implementer:

Edwin Lee
Chief of Engineering
Togus VAMC, Augusta, ME
207.623.5151
Edwin.Lee@va.gov

Derrick Hyatt, HEM
Environmental Professional
GEMS & Emergency Management Coordinator
Togus VAMC, Augusta, ME
207.623.8411 x 5558
Derrick.Hyatt@va.gov

Geographic area to benefit the project:

The U.S. Department of Veterans Affairs Medical and Regional Office Center, Togus ("Togus VAMC") is located at 1 Togus VA Center Drive in Augusta in Kennebec County. The Supplemental Environmental Project ("SEP") would provide a benefit to the urban center of Augusta by reducing the amount of particulate matter, carbon monoxide and volatile organic compounds emitted by mobile sources owned by Togus VAMC and operated at or near the Togus VAMC site.

Enforcement action:

This project is being performed as part of an Administrative Consent Agreement ("Agreement") between Togus VAMC, the Maine Department of Environmental Protection ("DEP"), and the Maine Office of the Attorney General ("AG") resolving air quality violations at Togus VAMC for lack of recordkeeping of required opacity data. This SEP is being funded as an element of the Agreement pursuant to the provisions of 38 M.R.S.A § 349(2-A). To resolve the violation described in the Agreement, Togus VAMC has agreed to pay to the Treasurer, State of Maine, a civil monetary penalty in the amount of \$56,700. Completion of this SEP will offset a portion of the penalty in the amount of four thousand four hundred dollars (\$4,400). If the actual cost of completing

the SEP project is less than the minimum estimated cost set forth in the SEP, Togus VAMC shall pay the difference to the *Treasurer, State of Maine*.

Type of project:

Pursuant to 38 M.R.S.A. § 349(2-A) this SEP falls under the categories of:

- 1) Pollution reduction projects that significantly decrease the release of pollutants into a waste stream at the point of discharge to a point significantly beyond levels required for compliance; and
- 2) Pollution prevention projects that eliminate all or a significant portion of pollutants at the point of generation.

This project seeks to reduce particulate matter (PM), carbon monoxide (CO) and hydrocarbon (HC) emissions from two heavy-duty diesel vehicles at Togus VAMC by installing diesel oxidation catalysts (DOCs) on each vehicle.

Project description:

Togus VAMC will retrofit two of its heavy duty diesel vehicles, a 2002 Ford 16-Passenger Chair Bus and a 1996 GMC Rubbish Truck with DOCs.

Diesel Retrofits

The U.S. Environmental Protection Agency ("EPA") established the National Clean Diesel Campaign ("NCDC") to promote the development of diesel emission reduction strategies. The NCDC includes regulatory programs to address new diesel engines as well as innovative programs to address the millions of diesel engines already in use. One of these programs is the diesel emission reduction technology Verification Program which evaluates the emission reduction capabilities of a given technology with a goal of instilling confidence in the stakeholder community that the verified emission reductions will be achieved. The verification process includes a thorough technical review of the technology as well as tightly controlled testing to quantify emission reductions. The Verified Technologies List provides detail on each technology including the manufacturer, technology/product name, applicability and percent reduction in PM, CO, and HC emissions achieved by the technology.

The diesel emission reduction technology most suitable for the two heavy duty diesel vehicles at Togus VAMC is the installation of a DOC. A DOC is a flow-through device consisting of a canister containing a honeycomb-like structure that is coated with an active catalyst layer. The catalyst layer contains small, well dispersed amounts of precious metals such as platinum or palladium. As the exhaust gases pass through the catalyst, CO, PM, and gaseous and liquid HC particles (unburned fuel and oil) are oxidized, thereby reducing emissions of these pollutants.

According to the Verified Technologies list, the range of emissions reductions for verified DOC technologies is as follows:

PM: 20–40% reduction
CO: 15–45% reduction
HC: 50–85% reduction

Togus VAMC is proposing to install EPA verified DOC products on the two identified heavy duty diesel vehicles. Based on an engineering estimate of annual emissions from these vehicles utilizing EPA's Mobile6 emission factors, the installation of DOCs on these two vehicles would reduce mobile source emissions from the Togus VAMC fleet by the following: 4–6 tons HC per year; 4–13 tons CO per year; and 1–4 tons PM per year. It is estimated that actual emission reductions would be much higher since the Mobile6 emission factors do not consider idle time which is particularly critical to the operation of these two vehicles.

Existing Regulatory Requirements:

This project is not required by law or any enforcement action nor is it required to have State or Federal permits.

Total project budget:

Item	Amount
2002 Ford E45 Wheelchair Bus – DOC retrofit	\$2200
1996 GMC C7500 Truck – DOC retrofit	\$2200
Total Project Budget	\$4400

Project schedule:

Task	Responsible	Due Date
DOC retrofit of 2002 Ford	Ed Lee	180 days after signature of ACA
DOC retrofit of 1996 GMC	Ed Lee	180 days after signature of ACA

Expected project benefits:

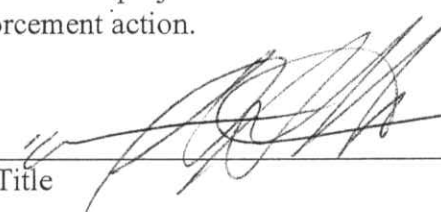
The installation of EPA verified DOC technology on the 1996 GMC Rubbish truck and 2002 Ford Wheel Chair Bus will reduce HC, PM and CO emissions from these mobile sources.

Reporting:

Report	Description	Due Date
Final Progress Report	This report will confirm that the retrofit of the 2002 Ford and 1996 GMC diesel vehicles has been completed.	210 days after signature of the ACA

Certification:

U.S. Department of Veterans Affairs Medical and Regional Office Center, Togus certifies that this SEP project is not result of substantive planning that occurred prior to this enforcement action.

BY:  DATE: 4-17-10
Title